

JOHN ADAMS HODGE and ASSOCIATES, LLC  
Attorneys and Counselors at Law  
Environmental & Aviation Law  
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9367 Two Notch Road, Suite C2B  
Columbia, S.C. 29223

Mailing Address:

John Adams Hodge, P.G.  
Sharon A. Hodge

Telephone 803.386.1504  
www.johnhodge.com  
johnhodge@johnhodge.com

Post Office Box 25553  
Columbia, S.C. 29224

Mr. Ramon Williams  
Office of Requests for Environmental Review  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, D.C. 20554

RE: Request for Environmental Review of Study Butte, Texas Cell Tower ASR File Number  
A1107619 / A1107618

Dear Mr. Williams:

Our firm has been asked by Mr. Ralph E. Hunter to respond to the aforementioned application that was made public on or about July 14, 2018 to construct a proposed cell towers at Study Butte and Terlingua near the Big Bend National Park. Mr. Hunter is a property owner who maintains a residence near the location of the proposed tower.

From our review of the proposed project, it is apparent that the requirements of the National Environmental Policy Act (NEPA) are applicable to the proposed activity and that this proposed project does not meet the conditions appropriate for the granting of a Categorical Exclusion under NEPA. The FCC should order that an Environmental Assessment (EA) be performed to consider the impact of the applicant's project upon the quality of the environment. Based upon the findings of the EA, such review might further trigger an Environmental Impact Statement (EIS).

In addition, the proposed tower is in close proximity to federally designated wilderness, and consideration should be made of the location of the proposed tower to requirements of The Wilderness Act of 1964.

Mr. Hunter is an accomplished astrophotographer and he previously acquired land near the project site and constructed a residence for the express purpose of enjoying the pristine sky conditions and having a residence and observatory to engage in astronomical observing and imaging. He would be damaged by the presence of the cell tower as currently proposed. The proposed tower, with lighting, would be visible from Mr. Hunter's property.

The area in which the tower is proposed to be located has been recognized as a “Dark Sky Park” by the International Dark Sky Association, and the Big Bend National Park was created, in part, because of its natural and cultural resources. Part of the existing resource is the presence of a pristine night sky. So much of our nation has been illuminated and over illuminated to the point that generations of Americans have never seen a true pristine sky with a bright Milky Way that was common before the invention of artificial illumination. Since the area contains an outstanding and vanishing resource, it is incumbent on the FCC to conduct an adequate environmental review consistent with NEPA for the purpose of evaluating the impact of the project on the quality of the night sky. Under the circumstances, there is no basis for a categorical exclusion from NEPA for this project.

Our firm is also engaged in aviation law and we have dealt with FAA requirements for lighting towers. We urge the applicant and the FCC to consider the option of reducing the height of the tower to the point where it will not require night lighting under FAA guidance and policy. We understand that if the height of the tower were reduced approximately 75 feet that FAA guidance states that the tower would not need to be lit. Typically, the FAA will make a determination that a tower of the proposed height of 270 feet constitutes a hazard to air navigation unless it is lit. If the applicant is unwilling to reduce the height of the tower as suggested herein, then we recommend that their application be denied or subject to a permit condition that would reduce its height accordingly.

Due to the pristine natural conditions in the area, the immediate proximity to Big Bend National Park and Big Bend Ranch State Park, and federally protected wilderness, the proposed project has a reasonable potential to significantly affect the quality of the human and natural environment. We urge the Commission to enter into consultation with the National Park Service and local stakeholders to ensure that the pristine conditions that exist in the area are maintained. If a cell tower is eventually located at Study Butte, it should be of a height and design so as not to require artificial lighting. If a permit for the proposed cell tower is granted, the Commission should further impose a permit conditions and requirements that the height of the tower be reduced where outdoor lighting is not needed and neither the tower nor any support buildings or structures may have any outdoor lighting.

Should you have additional questions, please do not hesitate to contact me at [johnhodge@johnhodgelaw.com](mailto:johnhodge@johnhodgelaw.com). In addition, we would also like to be placed on the mailing list for any notices, decisions, or other activity regarding this project.

Thank you very much for your review of this matter.

Very truly yours,

John Adams Hodge

